

HOUSE BILL No. 1035

DIGEST OF INTRODUCED BILL

Citations Affected: IC 26-2-5.

Synopsis: Indemnification clauses in contracts. Expands the prohibition against construction or design contracts indemnifying a promisee against liability to account for comparative fault liability.

Effective: July 1, 2002.

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January 8, 2002, read first time and referred to Committee on Rules and Legislative Procedures.

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Introduced

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE BILL No. 1035

A BILL FOR AN ACT to amend the Indiana Code concerning commercial law.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 26-2-5-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2002]: Sec. 1. **(a) For a construction or design**
3 **contract entered into after June 30, 1975, and before July 1, 2002,**
4 all provisions, clauses, covenants, or agreements contained in,
5 collateral to, or affecting any construction or design contract except
6 those pertaining to highway contracts, which purport to indemnify the
7 promisee against liability for:
8 (1) death or bodily injury to persons;
9 (2) injury to property;
10 (3) design defects; or
11 (4) any other loss, damage, or expense arising under either
12 **subdivision (1), (2), or (3);**
13 from the sole negligence or willful misconduct of the promisee or the
14 promisee's agents, servants, or independent contractors who are directly
15 responsible to the promisee, are against public policy and are void and
16 unenforceable.
17 **(b) For a construction or design contract entered into after June**

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IN 1035—LS 6027/DI 94+



1 30, 2002, all provisions, clauses, covenants, or agreements
2 contained in, collateral to, or affecting any construction or design
3 contract (except those pertaining to highway contracts) that
4 purport to indemnify the promisee against liability for:

5 (1) death or bodily injury to persons;

6 (2) injury to property;

7 (3) design defects; or

8 (4) any other loss, damage, or expense arising under
9 subdivision (1), (2), or (3);

10 from the negligence or willful misconduct of the promisee or the
11 promisee's agents, servants, or independent contractors who are
12 directly responsible to the promisee are against public policy and
13 are void and unenforceable.

14 SECTION 2. IC 26-2-5-3 IS REPEALED [EFFECTIVE JULY 1,
15 2002].

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